

SUPERIOR COURT
OF THE
STATE OF DELAWARE

WILLIAM C. CARPENTER, JR.
JUDGE

NEW CASTLE COUNTY COURTHOUSE
500 NORTH KING STREET, SUITE 10400
WILMINGTON, DE 19801-3733
TELEPHONE (302) 255-0670

July 27, 2009

William Johnson
James T. Vaughn Correctional
Smyrna, DE

RE: State v. William Johnson
ID No. 9711014716

Submitted: April 8, 2009
Decided: July 27, 2009

Upon Defendant's Motion for Postconviction Relief - DENIED

Dear Mr. Johnson:

The Court is in receipt of your Motion for Postconviction Relief filed with the Prothonotary on April 8, 2009. In essence you are requesting the Court to overturn your conviction based upon the Supreme Court decision in *Allen v. State* issued on February 17, 2009.¹ After reviewing your case file, your Motion will be denied. In essence *Allen* requires the Court to instruct the jury pursuant to 11 *Del. C.* § 274 when there are lesser included offenses and either a mental state or the defendant's accountability for an aggravating factor needs to be individually decided by that jury. In the case in which you were tried, the Court stated the following in its instructions:

“If you unanimously find beyond a reasonable doubt that there was a principal-accomplice relationship between William Johnson and one or more other persons with respect to the robbery charges, you must also unanimously decide what degree of robbery is compatible with

¹ *Allen v. State*, 970 A.2d 203 (Del. 2009).

the defendant's responsibility for any aggravating fact or circumstance, in this case threat of force or the display of a deadly weapon, irrespective of the responsibility for that aggravating fact or circumstance of any principal or any other accomplice. In other words, even though you may find that the defendant was an accomplice to the robbery, you need not find that each participant is guilty of the same degree of robbery. As such, you will be required to determine whether the defendant's accountability establishes a violation of Robbery First Degree, Robbery Second Degree or Theft."

The Court believes this instruction, as affirmed by the Delaware Supreme Court in your appeal, sufficiently complies with the requirements set forth in the *Allen* decision and nothing further was required.

Since the Court believes the instruction sufficiently complies with *Allen*, your Motion for Postconviction Relief is hereby DENIED.²

Sincerely yours,

/s/ William C. Carpenter, Jr.

Judge William C. Carpenter, Jr.

WCCjr:twp

cc: Prothonotary

² The Court also finds that the pending Motion for Correction of Sentence filed by the defendant is without merit. The defendant's habitual status was sufficiently established and the defendant was appropriately sentenced in accordance with that statute.